

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**PAUL F. WILLIAMS and
MAKSWILL GROUP
CORPORATION,**

Plaintiff,

v.

**YING ZHOU, GUOLIANG TIAN, and
JIHAHAO INTERNATIONAL
GROUP LTD.,**

Defendants.

Civ. No. 14-5544 (KM) (MAH)

MEMORANDUM and ORDER

Pending before me in this action are two motions: (a) the plaintiff's motion for summary judgment (ECF no. 10); and (b) the defendants' motion for judgment on the pleadings (ECF no. 25). For the reasons stated herein, both will be administratively terminated.

The motion for summary judgment was filed some 7 days after the complaint had been answered. It is premature, and it lacks the statement of undisputed facts as required by Local Rule 56.1. It raises multiple issues of fact about the formation of the alleged contract, in advance of any discovery. Long after filing it the plaintiff, *pro se*, obtained counsel, who will no doubt assist with federal procedures. The court may deny or defer summary judgment motion when opposing discovery has not had the opportunity for discovery so it can marshal the necessary facts. *See* Fed. R. Civ. P. 56(d). Leave to file summary judgment motions shall be sought from the Magistrate Judge when discovery is complete.

The motion for judgment on the pleadings, pursuant to Fed. R. Civ. P. 12(b), must likewise be administratively terminated. Plaintiffs, stating that they have now obtained counsel and wish to amend their complaint, filed a motion to amend. That motion did not state a basis for failing to comply with the Magistrate Judge's Scheduling order. The Magistrate Judge therefore terminated the motion without prejudice, and granted leave to file a new motion to amend the complaint on or before March 24, 2016. (ECF no. 71)

The complaint to which the motion for judgment on the pleadings refers will most likely be superseded within a short time. Consequently, the motion for judgment on the pleadings will most likely be moot. I will administratively terminate it. If, however, the motion to amend the complaint is not filed, or is denied, then defendants may file a notice to the Magistrate Judge requesting that their motion for judgment on the pleadings be restored to the calendar.

ORDER

For the foregoing reasons,

IT IS this 14th day of March, 2016

ORDERED that plaintiff's motion for summary judgment (ECF no. 10) is ADMINISTRATIVELY TERMINATED without prejudice to renewal, with the leave of the Magistrate Judge, at the close of discovery; and it is further

ORDERED that defendants' motion for judgment on the pleadings (ECF no. 25) is ADMINISTRATIVELY TERMINATED, without prejudice to its being restored to the calendar if an amended complaint is not filed within 60 days.



KEVIN MCNULTY, U.S.D.J.